

## REMARKS

### **I. Formalities**

Claims 1, 3, 7-10, and 15-30 remain in the subject patent application. Claims 1, 7, 15, 20, 23, and 28 are amended and claim 2 is canceled herein. Claims 4-6 and 11-14 were canceled in an earlier paper. All of the claim amendments herein represent either an introduction of a claim limitation from one claim into another or an introduction of a requirement for a machine enabling a digital transmission and/or other language (some of which was suggested by the examiner) in response to a rejection under 35 U.S.C. §101. Accordingly, Applicant respectfully submits that no new matter is added herein.

### **II. Response to the 35 U.S.C. §101 Rejections**

Claims 1-3, 7-10, and 15-30 were rejected under 35 U.S.C. §101 because the claimed invention is allegedly directed to non-statutory subject matter. Applicant disagrees that the claims rejected under 35 U.S.C. §101, and most especially claims 1-3 and 7-10, are directed to non-statutory subject matter, and submits that the carousel recited in the claims is a patentable structure contemplated by 35 U.S.C. §101. However, in the spirit of cooperation and in order to advance the prosecution of this case, Applicant has amended independent claims 1, 7, 15, and 20 herein such that they now recite “a machine enabling a digital transmission of information” or a similar requirement. Independent claims 23 and 28 have been amended herein in accordance with the Examiner’s suggestion. It is respectfully submitted that all of the claims are now directed to statutory subject matter under 35 U.S.C. §101. It is therefore respectfully requested that the 35 U.S.C. §101 rejections be withdrawn.

### **III. Response to the 35 U.S.C. §102 Rejections**

Claims 1, 2, 7-10, and 15-30 were rejected under 35 U.S.C. §102(e) as being allegedly anticipated by U.S. Patent No. 6,047,317 to Bisdikian et al. (hereinafter “Bisdikian”). These rejections are respectfully traversed in view of the remarks made below.

Anticipation requires each element of a claimed invention to be disclosed in a single reference. Disclosure cannot be predicated on teachings in a reference that are vague or based upon conjecture. It is respectfully submitted that silence in a reference is not a proper substitute for an adequate disclosure of facts from which a conclusion of anticipation may justifiably follow. A proper anticipation rejection under 35 U.S.C. §102 requires that each element of a claimed invention be disclosed in a single reference having the same elements, united in the same way, and performing the same function.

**A. Remarks Directed to Claims 1, 7, 15, 20, 23, and 28**

Claim 1 has been amended herein to require a limitation (originally set forth as dependent claim 2) that no module of the plurality of modules has successive instances positioned directly adjacent to one another across two periods of the carousel. This limitation, along with the additional limitation of claim 1 that the instances of each module be distributed approximately uniformly across the carousel and across two or more periods of the carousel, is not shown or disclosed by Bisdikian.

The Office Action addresses both of the stated limitations, and posits that both are disclosed by Bisdikian. Applicant, however, respectfully submits that Bisdikian in fact does not show or disclose the stated limitations, for the reasons discussed below, and respectfully requests that the Examiner reconsider his stance with respect to these limitations.

The first of the stated limitations to be discussed is “wherein the instances of each module are distributed approximately uniformly across the carousel *and across two or more periods of the carousel.*” The Office Action points to column 3, line 36 – column 4, line 5 and to Figs. 2 and 2a as disclosing this limitation. While it does appear to be true that these areas of Bisdikian disclose a carousel in which certain high priority image frames appear more frequently in order to reduce waiting times for those image frames, it is respectfully submitted that Bisdikian does not accomplish such a result by distributing instances of each module approximately uniformly across two or more periods of the carousel.

The cited passage of Bisdikian (column 3, line 36 – column 4, line 5) refers repeatedly to the arrangement of image frames within a single carousel (e.g., “a particular carousel,” column 3, line 59, “all image frames *in a carousel* to be cycled,” column 3, lines 59-60, “inserting plural copies of the higher priority value image frame(s) into *a carousel*,” column 4, lines 2-4.) Applicant has not found any reference in Bisdikian to the arrangement of image frames across more than one carousel.

Similarly, Figs. 2 and 2a deal with the arrangement of image frames within a single carousel. Arrangement across two or more periods of the carousel is not directly addressed, but an examination of Fig. 2a may offer a hint as to Bisdikian’s intended distribution across two or more such periods. As the Office Action points out, Fig. 2a shows a carousel in which a high priority image frame has multiple instances that are spaced apart from each other across the carousel. Only one complete carousel cycle is illustrated, but parts of a second carousel cycle are also shown in Fig. 2a. If one assumes that the single square to the left of the illustrated complete carousel cycle is the final frame of a second carousel cycle and that the three squares to the right of the illustrated complete carousel cycle are the first three frames of the second carousel cycle, a picture of that second carousel cycle begins to emerge. Specifically, because none of the four illustrated frames of the second carousel cycle are cross hatched, none of them are occupied by the high priority module. It may thus be inferred that all three instances of the high priority module within the second carousel cycle must be located with the middle eight frames of the 12-frame second carousel cycle. At most, then, successive instances of the high priority module may be separated by two frames. This means that the instances of each module are NOT distributed approximately uniformly across the carousel and across two or more periods of the carousel, as required by amended claim 1.

The second of the stated limitations to be discussed is “wherein no module of the plurality of modules has successive instances positioned directly adjacent to one another across two periods of the carousel.” As stated above, it is respectfully submitted that Bisdikian does not show or disclose the arrangement of image frames across more than one carousel. However, Fig. 2a may, once again, offer a hint as to what Bisdikian intends in this regard where it shows the first carousel cycle ending and the second carousel cycle beginning with modules that are identically colored (i.e., not cross hatched). From this it

may be inferred that successive instances of a module are positioned directly adjacent to one another across two periods of the carousel, contrary to the requirement of amended claim 1.

Claims 7, 15, 20, 23, and 28 contain, and have been amended to further contain, limitations similar to those discussed above for amended claim 1, and the arguments set forth above also apply to claims 7, 15, 20, 23, and 28. Applicant therefore respectfully submits the above arguments in support of the allowance of amended claims 7, 15, 20, 23, and 28 as well as of amended claim 1.

Based on the foregoing, Applicant respectfully submits that amended claims 1, 7, 15, 20, 23, and 28 are allowable. Withdrawal of the 35 U.S.C. §102 rejections of amended claims 1, 7, 15, 20, 23, and 28, and allowance of the claims, is therefore respectfully requested.

**B. Remarks Directed to Claims 8-10, 16-19, 21, 22, 24-27, 29, and 30**

Dependent claims must be construed to include all of the limitations of the claims from which they depend, as required by 37 C.F.R. 1.75(c) and M.P.E.P. 608.01(n). Therefore, claims 8-10, 16-19, 21, 22, 24-27, 29, and 30, which depend from one of amended claims 7, 15, 20, 23, and 28, are also not shown or disclosed by Bisdikian for at least the same reasons as listed earlier for amended claims 7, 15, 20, 23, and 28. Accordingly, Applicant respectfully submits that claims 8-10, 16-19, 21, 22, 24-27, 29, and 30 are allowable at least because of their dependence from an allowable claim. Withdrawal of the 35 U.S.C. §102 rejections of claims 8-10, 16-19, 21, 22, 24-27, 29, and 30, and allowance of the claims, is therefore respectfully requested.

**IV. Response to the 35 U.S.C. §103 Rejections**

Claim 3 was rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Bisdikian. These rejections are respectfully traversed in view of the dependence of claim 3 from claim 1 which, as set forth above, is now thought to be in condition for allowance. In other words, it is respectfully submitted that claim 3 is allowable based at

least in part on its dependence from an allowable claim. Based on the foregoing, the withdrawal of the 35 U.S.C. §103 rejection of claim 3, and allowance of the claim, is respectfully requested.

## CONCLUSION

Applicant has made an earnest attempt to place this case in condition for allowance. In light of the amendments and remarks set forth above, Applicant respectfully requests reconsideration and allowance of all of the pending claims.

No fees are believed to be due in connection with this Response. However, the Commissioner for Patents is hereby authorized to charge any fees due, or credit any overpayment, to Account No. 50-0221.

If there are matters that can be discussed by telephone to further the prosecution of this application, Applicant invites Examiner Hoye to call the undersigned attorney at the Examiner's convenience.

Respectfully submitted,

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